

1 **REMARKS**

2 Applicant respectfully requests reconsideration and allowance of the subject
3 application. Claims 1, 12, 21 and 24 are amended. No claims are added or
4 canceled. Claims 1-26 are pending in this application.

5 **Examiner Interview of 31 July 2004**

6 A telephonic interview with Examiner Cindy Nguyen and Examiner Wayne
7 Amsbury was held on July 31, 2004 with Attorney David Thompson. Discussion
8 was centered on the issue of: Does the U.S. patent 6,115,705, (the Larson
9 reference) qualify as prior art?

10 Examiner Wayne Amsbury said that the Applicant could eliminate the
11 Larson reference as prior art by making the statement that, 'at the time of the
12 invention of the material claimed by the application, the application and the Larson
13 reference were commonly owned by Microsoft'. This statement is true, and the
14 Applicant hereby states that at the time of the invention of the material claimed by
15 the application, the application, and/or subject matter of the application, was
16 owned by Microsoft and/or was under a duty of assignment to Microsoft and that
17 the Larson reference was also owned by Microsoft.

18 **Examiner Interview of 23 March 2004**

19 A telephonic interview with Examiner Cindy Nguyen and Examiner Wayne
20 Amsbury was held on March 23, 2004 and attorney Jim Banowsky. Several issues
21 were discussed and, among these, the following points were identified to be
22 clarified.

23 1) The first sentence of the Summary reads "The implementations
24 described herein concern a 'partial pre-aggregation' operation that is similar to an
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1 aggregation, but that *does not necessarily* continue the aggregation process until
2 there is only one output record for each group.” (Emphasis added).

3 Given that Applicant seeks to distinguish the primary reference by
4 amending the claims to clarify that a partial pre-aggregation is performed on a
5 single grouping column, Applicant agreed to disclaim the exact language of the
6 first sentence of the specification (i.e. “does not necessarily continue”). As
7 pointed out in the Specification and Claims, a partial pre-aggregation is an
8 aggregation on a single grouping column that does not continue the aggregation
9 process until there is only one output record for each unique grouping column
10 value. In other words, after a partial pre-aggregation on a grouping column, there
11 may be two or more records that have an identical grouping column value.

12 2) In Applicant’s previous response to the Office Action dated June 18,
13 2003, Applicant argued that the operation in the Dalal reference relied on by the
14 Examiner as being a partial pre-aggregation was a database operation known in the
15 art as a “group by with rollup.” In some database implementations (such as SQL),
16 the group by with rollup operation is referred to as “grouping sets.” The language
17 in the reference that refers to this operation as “an aggregation” is erroneous.

18 3) Although the Dalal reference refers to the multiple-level aggregation as
19 a single aggregation, Applicant contends that it is instead a series of unique
20 aggregation operations. However, by specifying in the amendments herein that a
21 partial pre-aggregation is performed on a single grouping column, the claims are
22 allowable over Dalal in any event.

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1 **35 U.S.C. § 102**

2 **Claims 1, 8, 9, 11, 12, 17, 19, 21 and 24**

3 Claims 1, 8, 9, 11, 12, 17, 19, 21 and 24 are rejected under 35 U.S.C.
4 §102(b) as being anticipated by U.S. Patent Number 5,781,896 issued to Dalal
5 (hereinafter "Dalal"). Applicant respectfully traverses the rejection.

6 Anticipation is a legal term of art. Applicant notes that in order to provide a
7 valid finding of anticipation, several conditions must be met: (i) the reference must
8 include every element of the claim within the four corners of the reference (see
9 MPEP §2121); (ii) the elements must be set forth as they are recited in the claim
10 (see MPEP §2131); (iii) the teachings of the reference cannot be modified (see
11 MPEP §706.02, stating that "No question of obviousness is present" in conjunction
12 with anticipation); and (iv) the reference must enable the invention as recited in the
13 claim (see MPEP §2121.01). Additionally, (v) these conditions must be
14 simultaneously satisfied.

15 The §102 rejection of claims 1, 8, 9, 11, 12, 17, 19, 21 and 24 is believed
16 to be in error. Specifically, the PTO and Federal Circuit provide that §102
17 anticipation requires that each and every element of the claimed invention be
18 disclosed in a single prior art reference. *In re Spada*, 911 F.2d 705,
19 15 USPQ2d 1655 (Fed. Cir. 1990). The corollary of this rule is that the
20 absence from a cited §102 reference of any claimed element negates the
21 anticipation. *Kloster Speedsteel AB, et al. v. Crucible, Inc., et al.*,
22 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

23 No §103 rejection has been lodged regarding claims 1, 8, 9, 11, 12, 17,
24 19, 21 and 24. Accordingly, if Applicant can demonstrate that Dalal does not
25 disclose any one claimed element with respect to claims 1, 8, 9, 11, 12, 17, 19,

21 and 24, the §102 rejections must be withdrawn, and a subsequent non-final action made with a different rejection in the event that the Examiner still finds any of such claims to be unallowable.

Applicant notes the requirements of MPEP §2131, which states that "TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM." This MPEP section further states that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."

Claim 1 has been amended to clarify that the partial aggregation is performed with respect to a single grouping column. Claim 1 now recites "a method for processing a database query," comprising: "partially pre-aggregating records in a database *according to a single grouping column*" (amendment emphasized) "to provide a result that contains at least two records having like grouping column values." Claim 1 also recites the step of "aggregating records derived from the partial pre-aggregation to provide a result that contains records having unique grouping column values."

The gist of claim 1 is that a partial aggregation - i.e., an incomplete aggregation - may be performed as a preliminary step in a database query.

1 Normally after an aggregation is completed, no two records contain a grouping
2 column value that is the same as the grouping column value of another record.

3 However, as outlined in the specification, there is sometimes a benefit
4 derived from aggregating groups of records before aggregating all of the records
5 together. The final aggregation step eliminates multiple records having identical
6 grouping column values so, since the partial aggregation is merely an intermediate
7 step, an acceptable result is ultimately obtained.

8 The Office Action states that the Dalal reference anticipates claim 1.
9 Applicant disagrees. The reference does not support this statement. In the
10 discussion of Fig. 10, the reference indicates that there are two grouping columns
11 in the example shown. To-wit, “[t]he result table 1000 contains a Division
12 grouping column, a Salesperson grouping column 1002. . .” and other columns.

13 The process described in Dalal is not a partial aggregation, but is more
14 appropriately described as a “*multiple level aggregation query*.” Dalal, column 9,
15 lines 52-53. A multiple aggregation query is a query that utilized more than one
16 grouping column, aggregating one grouping column at a time, sequentially. In the
17 example described in Dalal, the Division grouping column is aggregated, then the
18 result of that aggregation is aggregated according to the Salesperson grouping
19 column. This does not disclose or anticipate a partial aggregation (or partial pre-
20 aggregation).

21 The point of novelty described in Dalal is to perform a database query using
22 references to database items rather than the database items themselves, so as to
23 save a number of disk read and/or write operations. The reference does not
24 describe partial aggregation.

1 Accordingly, claim 1 is not anticipated by Dalal and is allowable over the
2 cited reference. The rejection, therefore, should be withdrawn.

3 **Claims 8, 9 and 11** depend from claim 1 and are allowable by virtue of that
4 dependency.

5 **Claim 12** has been amended to recite a relational database system that
6 includes, *inter alia*, a record store and a query processor configured “to process a
7 query on the record store according to a single grouping column, the query
8 processor being configured to partially pre-aggregate the record store to provide a
9 result that contains at least two data records that have like grouping column
10 values.”

11 As previously discussed in the response to the rejection of claim 1, a typical
12 aggregation does not result in any two records having an identical grouping
13 column value. According to the specification, a partial aggregation or pre-
14 aggregation does not necessarily produce such a result. The operations referred to
15 in Dalal are sequential aggregations - one follows the other. Dalal does not
16 disclose or anticipate a partial aggregation or partial pre-aggregation.

17 Accordingly, claim 12 is allowable over the cited reference and the
18 rejection thereof should be withdrawn.

19 **Claims 17 and 19** depend from claim 12 and are allowably at least by the
20 same reasoning discussed in the response to the rejection of claim 12. Therefore,
21 the rejection of claims 17 and 19 should also be withdrawn.

22 **Claim 21** has been amended and now recites a relational database computer
23 program that comprises “partial pre-aggregation code to partially pre-aggregate
24 data records according to grouping column values in a single grouping column to
25 provide a partial pre-aggregation result having two or more records having like

1 grouping column values.” The relational database computer program also includes
2 “aggregation code” that aggregates the result of the partial pre-aggregation.

3 As previously discussed, Dalal does not disclose or anticipate a partial pre-
4 aggregation operation. Dalal merely discloses a multiple level aggregation.

5 Accordingly, claim 21 is allowable over the cited references and the
6 rejection of claim 21 should be withdrawn.

7 Claim 24 recites a relational database computer program comprising
8 computer-executable instructions that perform several steps. The steps include
9 “aggregating the input records in the stream *according to a single grouping*
10 *column*” (amendment emphasized) to create a record store, “joining records in the
11 record store with other data,” outputting the records from the join and aggregating
12 the records output from the join. Claim 24 also makes clear that “the records
13 output from the join include at least two records that have an identical grouping
14 column value in the single grouping column.” This restriction, in essence, renders
15 the first aggregating step a partial aggregation.

16 As previously discussed, the cited reference only describes an aggregation
17 or a multiple level aggregation, wherein no records output from an aggregation
18 contain an identical value **in the grouping column**. The identical values cited in
19 the Office Action are contained in a grouping column on which the aggregation
20 was not performed. The operations disclosed in Dalal are merely typical
21 aggregations that completely aggregate records on a grouping column so that no
22 record resulting from the aggregation contains an identical value in the aggregated
23 grouping column. This is contrary to claim 24.

1 Claim 24 clearly recited a partial aggregation that is not disclosed in any
2 reference. As a result, claim 24 is allowable over Dalal and the rejection thereof
3 should be withdrawn.

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5 **35 U.S.C. § 103(a)**

6 **Claims 2-5, 13-15, 20, 22, 23 and 25**

7 Claims 2-5, 13-15, 20, 22, 23 and 25 stand rejected under 35 U.S.C. 103(a)
8 as being unpatentable over Dalal in view of U.S. Patent Number 6,115,705 issued
9 to Larson (hereinafter "Larson"). Applicant respectfully traverses the rejection.

10 Larson was filed on May 19, 1997 and issued on September 5, 2000. The
11 instant application was filed on June 30, 2000. The Applicant hereby states that at
12 the time of the invention of the material claimed by the application, the application
13 and/or its subject matter, was owned by, and/or was under an obligation of
14 assignment to, Microsoft, and states that the Larson reference was also owned by
15 Microsoft. The Larson reference is disqualified as prior art against the claimed
16 invention since the subject matter of the claimed invention was, at the time the
17 invention was made, owned by Microsoft and/or was subject to an obligation of
18 assignment to Microsoft, and that the Larson reference was also owned by
19 Microsoft.

20 As such, Larson is not available as prior art under 35 U.S.C. 103, as is
21 discussed in more detail in MPEP §706.02(l)(1), entitled "Rejections Under 35
22 U.S.C. 102(e)/103; 35 U.S.C. 103(c)". This MPEP section cites 35 U.S.C. 103(c):

23 35 U.S.C. 103. Conditions for patentability; non-obvious
24 subject matter.

25 (c) Subject matter developed by another person, which
qualifies as prior art only under one or more of subsections (e), (f),
and (g) of section 102 of this title, shall not preclude patentability
under this section where the subject matter and the claimed invention

were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

More specifically, this MPEP section states that "Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), continued prosecution application filed under 37 CFR 1.53(d), and reissues."

Accordingly, Larson is not available as prior art under 35 U.S.C. §103 with respect to this application, and, as such, the rejection of claims 2-5, 13-15, 20 and 23-25 is prima facie defective. Additionally, no other grounds for rejection have been lodged regarding claims 2-5, 13-15, 20 and 23-25. Accordingly, in the event that the Examiner still finds such claims to be not allowable, a subsequent non-Final action must be made with different grounds for rejection.

The preceding notwithstanding, Applicant also presents the following arguments with respect to the claims rejected under § 103(a).

Claims 2-5 depend from claim 1 and are allowable at least by virtue of that dependency for the reasons stated in the response to the rejection of claim 1. Neither reference teaches or suggests a partial aggregation or partial pre-aggregation. As discussed above, this makes the claims allowable over the cited references and the rejection of these claims should be withdrawn.

Claims 13-15 and 20 depend from claim 12 and are allowable at least by virtue of that dependency for the reasons stated in the response to the rejection of

1 claim 12. The addition of Larson does not remedy the noted deficiency previously
2 discussed because Larson does not teach or suggest partial aggregation or partial
3 pre-aggregation.

4 Accordingly, the rejection of claims 13-15 and claim 20 should be
5 withdrawn.

6 **Claims 22 and 23** depend from claim 21 and are allowable at least by
7 virtue of that dependency for the same reasons set forth in the response to the
8 rejection of claim 21, above. Accordingly, the rejection of these claims should be
9 withdrawn.

10 **Claim 25** depends from claim 24 and is allowable at least by virtue of that
11 dependency for the same reasons set forth in the response to the rejection of claim
12 24, above. Accordingly, the rejection of claim 25 should be withdrawn.

13 **Claims 6, 7, 10, 16, 18 and 26**

14 **Claims 6, 7, 10, 16, 18 and 26** are rejected under 35 U.S.C. 103(a) as being
15 unpatentable over Dalal in view of Larson and further in view of U.S. Patent
16 Number 6,032,144 to Srivastava et al. (hereinafter Srivastava). Applicant
17 respectfully traverses the rejection.

18 These claims depend from claims that have been shown, above, to be
19 allowable over Dalal. The addition of Larson and/or Srivastava to the analysis
20 does not provide a reference that teaches or suggests partial aggregation or partial
21 pre-aggregation.

22 As previously discussed, Larson is not available as prior art and, therefore,
23 this rejection – to the extent that it relates to the Larson reference – is defective.

24 Srivastava describes a relational database system and a method for query
25 processing using early aggregation. A collection of equivalence rules involving a

1 multi-set version of a relational algebraic theta-semijoin operation is used to
2 generate relational algebraic expressions equivalent to a computer programming
3 language query. The expressions are used by way of example to describe a process
4 that computes cost estimates for generated expressions. Based on the computed
5 cost estimates, the least costly implementation of a complex query is determined
6 and queries are cost-based optimized.

7 But Srivastava does not resolve the deficiency present in Dalal, to-wit: there
8 is no teaching or suggestion of a partial pre-aggregation operation that is required
9 by the rejected claims as a result of their dependencies.

10 Accordingly, these claims are allowable over the cited references and the
11 rejection thereof should be withdrawn.

12 **Conclusion**

13 All pending claims 1-26 are in condition for allowance. Applicant
14 respectfully requests reconsideration and prompt issuance of the subject
15 application. If any issues remain that prevent issuance of this application, the
16 Examiner is urged to contact the undersigned attorney before issuing a subsequent
17 Action.

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20 Date: 08-02-04

Respectfully Submitted,

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